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Supreme Court Strips Federal Officials Of Some Immunity From Legal Action

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Former President Richard M. Nixon and some of his closest aides now face an increased risk that they may have to pay, in money, for some of the Watergate scandals.

Other federal officials, present and past, high- and middle-level, also run the risk of paying for violating someone's constitutional rights.

The Supreme Court created those risks yesterday in a 5-4 ruling taking away some of the traditional immunity that federal officials have had to damage lawsuits.

What the court did, in practical effect, was to add its approval to a line of decisions that had been reached by lower courts, limiting official immunity.

The court itself had never ruled that way, however, and the Justice Department had been hoping that the court would stop the trend toward official liability for unconstitutional conduct on the job.

YESTERDAY'S RULING cleared the way for continued action in lower courts on a spreading number of lawsuits, all related more or less to the illegal tactics, including burglaries and break-ins, that are associated generally with Watergate, including the FBI and CIA scandals.

Nixon himself, as well as former aides H.R. Haldeman and John N. Mitchell, have been sued successfully. Morton Halperin, a one-time national security aide in the White House, claimed that they violated his constitutional rights when they authorized the wiretapping of his telephone.

Halperin won in U.S. District Court, but the case is now on appeal. One of the issues the former officials raised in defense was their supposed official immunity to lawsuit.

Halperin did not win money damages, however — except \$1. He is testing that ruling in his own appeal.

NOW THAT THE Supreme Court has given constitutional clearance to some damage suits against federal officials, settling that basic controversy, lower courts may become more willing to assess actual damages.

The decision did not take away all the legal immunity of officials.

In a general way, it said that an official might yet be immune to lawsuit if that were "essential for the conduct of the public business." The court said that would be limited to

"exceptional situations," but did not spell that out.

The court also declared that officials might be immune if they showed that they took the actions that were challenged believing, in "good faith," that what they were doing was illegal.

In other words, to win a damage suit against a federal official for violating someone's constitutional rights, the suing person or organization would have to prove that the violation was intentional.

FINALLY, THE COURT said that judges, prosecutors and government lawyers taking part in actual court cases, or courtlike cases within executive-branch agencies, would continue to enjoy absolute immunity for their official actions.

It is not yet clear how far the court ruling will reach, since the justices have not spelled out the kinds of constitutional violations that could lead to damage lawsuits against federal officials.

So far, the court has said that such suits may be filed for violating a person's right to privacy, or searching a private home or office illegally.

Conceivably, the right to sue may ultimately turn out to cover all the rights protected by the Constitution. It probably will take years of court activity to settle that finally.

The new ruling clears the way for a trial of a \$32 million lawsuit against former Agriculture Secretary Earl L.

Butz and an assistant secretary, Richard T. Lyng.

A FIRM DOING business in the commodities futures market contended in a lawsuit against them that they violated the Constitution by starting an investigation of the firm, leading to its suspension as a market trader.

The court announced its ruling on the immunity issue as it finished issuing decisions for the week. The justices will be on the bench Monday for their final decision day of the current term.

Among issues yet to be decided is the constitutionality of imposing the death penalty in a murder case for a person who was involved in the crime but did not do the actual killing.

The court is also preparing to rule on the government's power to forbid the use of "dirty" words on radio and television shows.

In other rulings issued yesterday:

- The court ruled 7-2 that consumers may sue to break up a boycott by insurance companies refusing to sell the kinds of policies the customers want.

- It ruled that competing companies take a serious legal risk when they swap information about the prices they will charge, even if they trade the data in order to help defend themselves against a complaint that they are using discriminatory pricing policies.